

SUBJECT: DECISION ON TERMINAL DISCLAIMERS INFORMAL FORM

DATE: 3-26-03

APPL. S.N.: 091 913, 669

TO EXAMINER: D. Khare

ART UNIT: 1623

MOSE MONTGOMERY ROOM 11E18

MAILROOM DATE 2-28-03

AFTER FINAL YES ☐ NO ☒ NUMBER OF T.D(S). FILED 1

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE LEFT IN FILE.

☒ The T.D. is PROPER and has been recorded. (See 14.23).

☐ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

☐ The recording fee of \$ _____ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

☐ Application Examiner has not processed T.D. fee. (See fee authorization).

☐ The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

☐ The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

☐ It is directed to a particular claims(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

☐ The person who signed the terminal disclaimer:

☐ has failed to state his/her capacity to sign for the business entity, (See 14.28).

☐ is not recognized as an officer of the assignee, (See 14.29 and possibly 14.29.01).

☐ No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). **NOTE:** This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

☐ No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

☐ The T.D. is not signed. (See 14.26, 14.26.3). or 14.26.03 if TD is not signed by all the owners.

☐ Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

☐ The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

☐ The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

☐ The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)

☐ Other: _____

☐ Suggestion to request refund of \$ _____. (See 14.35, 14.36).

[] EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALTIES MAY BE FAXED IN TO THE GROUP

FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:

☐ Sample f a TD over a pending application and assignee Certificate (See 14.37).

☐ Sample f a TD over a prior patent and assignee Certificate (See 14.38).

☐ Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)

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MAR-10-2003

Attorney's Docket No. 56238 (71526)

TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: M. Sakanaka, et al.

Serial No: 09/913,669

Group No.: 1623

Filed: August 16, 2001

Examiner: Khare, Devesh

For: CEREBROVASCULAR REGENERATION/RECONSTRUCTION PROMOTING
AGENTS AND SECONDARY NERVOUS TISSUE DEGENERATION-INHIBITING
AGENTS COMPRISING GINSENOSEIDE RB₁

Assistant Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile to Group 1600 of the U.S. Patent & Trademark Office by facsimile number 703-872-9306 on February 28, 2003.

By:

John B. Alexander, Ph.D.

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE
PATENTING REJECTION OVER APPLICATION

Your Petitioner, JAPAN SCIENCE AND TECHNOLOGY CORPORATION, hereby certify that pursuant to their review of the pertinent evidentiary documents involved herein, and to the best of the Petitioner's knowledge and belief, the entire right, title and interest in the above-identified application, as well as all patents referred to herein, is in the assignee seeking to take the present action, through the persons named below who have been empowered to act on behalf of the Petitioners.

Petitioners are the record owners of 100 percent interest in the above-identified patent application.

Petitioners hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 of any patents issuing

from allowed U. S. Patent Application No. 09/887,399. Petitioners are the owners of 100 percent interest in the allowed U. S. Patent Application No. 09/887,399.

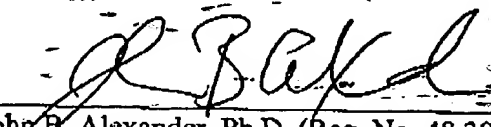
Petitioners hereby agree that any patent so granted on the instant application shall be enforceable only for and during such period that it and t any patents issuing from allowed U. S. Patent Application No. 09/887,399 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioners do not disclaim the terminal part of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patents issuing from allowed U. S. Patent Application No. 09/887,399 in the event that the patents issuing from allowed U. S. Patent Application No. 09/887,399 expire for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, or terminally disclaimed under 37 C.F.R. §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term.

Petitioners also do not disclaim any right(s) under any law of the United States of America to extend the patent term of any patent issued on the above-identified application or any patent term extension that may be granted on the patents issuing from allowed U. S. Patent Application No. 09/887,399.

The Commissioner is hereby authorized to access Deposit Account No. 04-1105 for the Terminal Disclaimer Fee under 37 C.F.R. §1.20(d). Should any additional fees be required with this submission, or if any credit is due for over payment, the Commissioner is authorized to access the above deposit account concerning the same.

Date: *February 28, 2003*


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